

## **Appendix A. Memorandum of Agreement**

---

MEMORANDUM OF AGREEMENT AMONG  
THE U.S. ENVIRONMENTAL PROTECTION AGENCY  
THE IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY AND  
THE NEZ PERCE TRIBE RELATING TO THE  
DEVELOPMENT OF A TMDL FOR THE SOUTH FORK OF THE CLEARWATER RIVER  
HYDROLOGIC UNIT

WHEREAS, the U.S. Environmental Protection Agency (EPA), the State of Idaho Department of Environmental Quality (DEQ), and the Nez Perce Tribe (collectively "the Parties") each desire to develop a government to government agreement for the development of a total maximum daily load (TMDL) for the South Fork of the Clearwater River hydrologic unit code (HUC # 17060305).

WHEREAS, the Parties wish to work together to restore water quality, build, support, and promote cooperation among citizens, business, and governments at the community level for purposes of formulating effective community support and a South Fork of the Clearwater River HUC TMDL (hereinafter "the TMDL").

THEREFORE, the parties enter into this Memorandum of Agreement (the Agreement), and agree as follows:

1. The Parties will each provide staff to coordinate and to provide technical advice to draft the TMDL, in addition to any other assistance each respective agency desires to provide.
2. The TMDL produced by the technical staff will be jointly presented to the Parties on or before December 31, 2001, or other deadline consistent with the court approved schedule, for approval under their respective authorities. This agreement does not constitute approval by any Party of any TMDL.
3. For purposes of developing this TMDL, the Parties agree that the water quality standards as determined by 40 C.F.R. § 131.21, including those which EPA has approved or promulgated for the State of Idaho, are an appropriate measure for calculating the TMDL.
4. Communications between the Parties while implementing this Agreement generally will be at the staff level. If a dispute arises the issue will be presented to immediate supervisors and the staffs will present the matter to progressively higher levels of management until consensus is reached. Alternative methods of dispute resolution may be utilized, if consented to by all Parties.
5. The Parties recognize that each Party reserves all rights, powers, and remedies now or hereafter existing in law or in equity, by statute, treaty, or otherwise. Nothing in this Agreement is or shall be construed to be a waiver of the sovereignty of the Nez Perce Tribe, the State of Idaho, or the United States. By entering into this Agreement, the Parties reserve, and do not waive, their claims to jurisdiction over all or parts of the South Fork of the Clearwater River and sources of pollution affecting the South Fork of the Clearwater River. This Agreement is intended solely for the purposes of facilitating inter-governmental cooperation between the Parties, and creates no rights in third parties or the right to judicial review.

6. This Agreement shall be effective upon the date of signature by all of the Parties. Any Party may voluntarily withdraw from this Agreement by providing thirty (30) days written notice to the other Parties

## NEZ PERCE TRIBE

BY: Samuel N. Penney  
Samuel N. Penney, Chairman

10-25-2000  
Date

BY: Arthur M. Taylor  
Arthur M. Taylor, Secretary

10/25/00  
Date

## IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY

BY: C. Stephen Allred  
C. Stephen Allred, Director

10/31/2000  
Date

## U.S. ENVIRONMENTAL PROTECTION AGENCY

BY: Chuck Findley  
Chuck Findley, Acting Regional Administrator

11-08-00  
Date